



August 10, 2004

TO: All Members of the Geoduck Industry and Prospective Bidders

Attached are copies of an Invitation to Bid and an Invitation to Test Harvest for the upcoming geoduck auction. Please pay close attention to some important changes and requirements.

Please note that The Department of Natural Resources is awaiting the decision of the Pierce County Hearings Examiner as to whether Pierce County will issue DNR a Shoreline Substantial Development Permit to harvest geoducks at the Mahnckes tract. An unfavorable decision will necessitate a change in harvest plans. In the event of a change, the harvest industry will be notified as soon as possible and presented with alternate plans.

Twelve (12) quotas will be auctioned on September 9, 2004. These quotas are located in the **South Sound** harvest region in **Pierce County** at the **Mahnckes** tract and in **King County** at the **Point Heyer** tract.

2. The auction date is subject to change to meet legal advertising and SEPA time requirements.
3. The quota system to be used for this Harvest Agreement allows for the removal of a designated number of pounds of geoduck clams (not to exceed the Harvest Ceiling) from each harvest area. The geoducks harvested by the Purchaser will be billed at the price per pound listed below:

HARVEST AREA	QUOTA	HARVEST CEILING	PRICE PER POUND
Point Heyer	1	12,865	\$ 1.90
Mahnckes		51,000	\$ 1.90
Point Heyer	2	12,865	\$ 1.90
Mahnckes		51,000	\$ 1.90
Point Heyer	3	12,865	\$ 1.90
Mahnckes		51,000	\$ 1.90



Point Heyer	4	12,865	\$ 1.90
Mahnckes		51,000	\$ 1.90
Point Heyer	5	12,865	\$ 1.90
Mahnckes		51,000	\$ 1.90
Point Heyer	6	12,865	\$ 1.90
Mahnckes		51,000	\$ 1.90
Point Heyer	7	12,865	\$ 1.90
Mahnckes		51,000	\$ 1.90
Point Heyer	8	12,865	\$ 1.90
Mahnckes		51,000	\$ 1.90
Point Heyer	9	12,865	\$ 1.90
Mahnckes		51,000	\$ 1.90
Point Heyer	10	12,865	\$ 1.90
Mahnckes		51,000	\$ 1.90
Mahnckes	11	25,000	\$ 1.90
Mahnckes	12	25,000	\$ 1.90

- 1 The award of a contract will be based upon the highest cash bonus bid received from a responsible bidder. A \$40,000.00 deposit must be submitted with each bid for quotas one (1) through ten (10). The remainder of the bonus bid, less the \$ 40,000.00, is due no later than **September 22, 2004**. A \$20,000.00 deposit must be submitted with each bid for the 25,000 pound quotas. The remainder of the bonus bid, less the \$ 20,000.00, is due no later than **September 22, 2004**.
2. The term of this Harvest Agreement is approximately **Four (4)** months. Operations will start on the **Point Heyer tract** on **October 11, 2004** and will continue until **November 5, 2004**. Operations will start on the **Mahnckes tract** on **November 8, 2004** and will continue until **January 29, 2005**.
3. Weigh-out will be conducted on the water unless weather conditions make it impractical, in which case the weigh-out will be conducted at the designated off-load site.
4. A bond of at least \$ 40,000 shall be in force for each of the 63,865 pound quotas.

5. A bond of at least \$ 20,000 shall be in force for each of the 25,000, pound quotas.
6. Charges for the removal of geoducks will be billed every two (2) weeks, with payment due within ten (10) business days of the date the bill is sent.
7. The hours of operation shall be from 8:00 a.m. to 4:00 p.m.
8. Harvesting is not allowed on Saturdays, Sundays, or state holidays, as defined by the Office of Financial Management.
9. Portions of the harvest area may be closed at any time to protect wildlife and other public resources.
10. Please note that the shallow water boundary for the **Mahnckes** and **Point Heyer** tracts is **-18 feet (MLLW)**.

The shallow water boundary for these tracts will either be based on depth or a line 200 yards seaward from and parallel to the line of ordinary high tide, whichever is the greater distance from shore.

11. Test harvest or a portion of the test harvest area may be shut down by the DNR for failure to cooperate by harvester.
12. **The specific rights and obligations of an apparent high bidder that is confirmed as a responsible bidder/harvester are contained in the Harvest Agreement (Agreement). The information herein is a summary of information relating to this auction and is provided as a matter of convenience. The obligations of the Department of Natural Resources, any bidders, and any person or entity that executes an Agreement, are defined by the Agreement and the statutes, regulations, and laws of the state of Washington. Nothing in the Invitation to Bid, in any other written materials, or in any oral statements that might be made, shall supersede the Agreement. Copies of the Agreement will be available at the auction or may be requested in advance by contacting DNRs Aquatic Resources Division, PO Box 47027, Olympia, WA 98504-7027. In the case of any discrepancy, the Agreement will control, and each bidder should review its content in advance of any submission of bids.**

Attachments

**STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
DOUG SUTHERLAND
Commissioner of Public Lands**

INVITATION TO BID

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STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
DOUG SUTHERLAND
Commissioner of Public Lands
Olympia, Washington 98504

INVITATION TO BID

Pursuant to RCW 79.96.080(1), the Department of Natural Resources (DNR) hereby announces that rights to harvest geoducks from the following beds will be put up for competitive bid on the stated date.

<u>TRACT NAME</u>	<u>QUOTA NO.</u>	<u>AUCTION TIME</u>	<u>AUCTION DATE</u>	<u>HARVEST CEILING</u>
Point Heyer Mahnckes	1	10:00 AM	September 9, 2004	12,865 51,000
Point Heyer Mahnckes	2	10:20 AM	September 9, 2004	12,865 51,000
Point Heyer Mahnckes	3	10:40 AM	September 9, 2004	12,865 51,000
Point Heyer Mahnckes	4	11:00 AM	September 9, 2004	12,865 51,000
Point Heyer Mahnckes	5	11:20 AM	September 9, 2004	12,865 51,000
Point Heyer Mahnckes	6	11:40 AM	September 9, 2004	12,865 51,000
Point Heyer Mahnckes	7	12:00 PM	September 9, 2004	12,865 51,000
Point Heyer Mahnckes	8	12:20 PM	September 9, 2004	12,865 51,000
Point Heyer Mahnckes	9	12:40 PM	September 9, 2004	12,865 51,000
Point Heyer Mahnckes	10	1:00 PM	September 9, 2004	12,865 51,000
Mahnckes	11	1:20 PM	September 9, 2004	25,000
Mahnckes	12	1:40 PM	September 9, 2004	25,000

The purpose of DNR's election to put these rights up for competitive bid is to serve the public's interest by obtaining the highest price from responsible bidders. DNR, therefore, solicits bid proposals from interested parties. Bidders will bid for the non-exclusive right to go onto the stated area and remove geoducks (up to the Harvest Ceiling).

The terms under which successful bidders are to operate are set out in the Harvest Agreement and the laws and regulations of the State of Washington. The DNR reserves the right to increase or decrease the Harvest Ceiling at any time during the Harvest Agreement to ensure that total pounds harvested from state-owned aquatic lands for the year meet the state's target sustained yield, and to ensure that the geoduck industry has an opportunity to harvest the state's share of the resource. Purchasers will be notified in writing of any such addition or subtraction of pounds to the Harvest Ceiling. The state reserves the right to auction additional harvest areas during this agreement period in order to utilize all of the resource available to the state. Harvest quotas not fully utilized during previous contracts, and that still have a substantial portion of resource remaining may be re-auctioned at any time. Additional pounds created through changes in the sustainable yield, or pounds made available through tribal agreements may be auctioned later during the same harvest year. The Harvest Agreement outlines the rights and obligations of the parties regarding changes to the harvest ceiling. Tribal harvesting could occur before, during or after purchasers have harvested their share of resource from the geoduck tracts.

1. HARVEST AGREEMENTS WILL BE OFFERED BY SEALED BID AUCTION

(a) Harvest Agreements will be offered by sealed bid auction. Sealed bids must be accompanied by a money order, certified check, or cashiers check equal to \$ 40,000.00 for the first ten quotas or \$ 20,000.00 for quotas 11 and 12, for use as a bid deposit,

(b) In one envelope, place the following:

(i) The bid form properly filled out and signed.

(ii) The bid deposit.

(iii) On the outside of this envelope, the words "Geoduck Auction," the number of the "Quota," and the name of the "Bidder" must appear. Mail or deliver to DNR at the address below. If the bid is mailed, please indicate on the outside of the envelope "Geoduck Bid, Do Not Open."

(c) Bid forms and bonus bid deposits may be delivered to the Aquatic Resources Division, 1111 Washington St SE, PO Box 47027, Olympia, Washington 98504-7027. The day of the auction, bids must be delivered to the location of the auction and submitted by the time of the auction.

(d) Prior to the first bid opening, DNR will designate the official clock. This clock will be used as the official time for all bid openings.

2. BID OPENING

(a) Sealed bids will be opened on **September 9, 2004**, at:

10:00 AM for the first auction

10:20 AM for the second auction

10:40 AM for the third auction

11:00 AM for the fourth auction

11:20 AM for the fifth auction

11:40 AM for the sixth auction

12:00 PM for the seventh auction

12:20 PM for the eighth auction

12:40 PM for the ninth auction

1:00 PM for the tenth auction

1:20 PM for the eleventh auction

1:40 PM for the twelfth auction

The auctions will be conducted in Room 172 of the Natural Resources Building, at 1111 Washington St SE, Olympia, Washington. See attached map for directions. Staff will be available from 9:30 a.m. to 10:00 a.m. to answer questions. However, the rights and obligations of any party to a Harvest Agreement are defined solely by the terms of the written Agreement.

3.

4. EVALUATING BIDS TO DETERMINE THE HIGHEST RESPONSIBLE BIDDER

(a) DNR will evaluate the bids to determine the highest responsible bidder. In evaluating bidder responsibility, DNR will evaluate several factors including, but not limited to, the:

- (1) Bidders legal competency (including licensing); and,
- (2) Bidders actual competency (including financial resources, equipment, prior performance, and proposed Plan of Operation).

(b) In the course of evaluating bidder responsibility, DNR shall be entitled to consider any matters that relate to the factors listed in RCW 79.90.215(1).

(c) To assist DNR in evaluating whether the apparent high bidder is the highest responsible bidder, the apparent high bidder will be required to provide the following information to DNR ("bidder responsibility information"), by no later than **September 22, 2004**:

(1) The bidder's articles of incorporation and by-laws; the names of officers and directors; the names of shareholders (including percentage of stock-owned by each shareholder); the names of (i) any entity in which the apparent high bidder has control, the power to control, or a substantial financial interest, or (ii) any entity which has control over, the power to control, or a substantial financial interest in the apparent high bidder; and (iii) the bidder's registered agent.

(2) The bidder's most recent financial statement, current balance sheet, and banking reference.

(3) A description of the bidder's past experience in underwater seafood harvesting, including past experience in supervising or managing underwater commercial dive operations.

(4) The names of the bidder's Purchasers and subcontractors, along with these entities' UBI numbers and account numbers. Proof of insurance coverage for all subcontractors is required.

(5) A copy of the apparent high bidder's Department of Health Interstate Shippers Certification card.

(6) A Proposed Plan of Operation (form provided by DNR) which shall include:

(i) The source and identity of divers, tenders, harvest vessels, and other harvest equipment. For each employee, provide a clear, readable, photocopy of his or her drivers license, social security card, and dive license.

(ii) A description of the legal relationship between the apparent high bidder, divers and vessel operators (i.e., employee/employer or subcontract). All subcontractors must be fully identified.

(iii) The working relationship between the apparent high bidder and any identified employees/subcontractors. The duties of each employee/subcontractor shall be described and incorporated into the Proposed Plan of Operations.

(iv) All information relating to harvest plans, bonding, off-load points, and vessel moorage must be identified and supplied in the Proposed Plan of Operations.

(v) A list of all steps the apparent high bidder will take to ensure compliance with this Harvest Agreement, by Purchaser, Purchaser's employees, and subcontractors.

A packet containing slots for the above information will be provided to the apparent successful high bidders at the end of the auction. All required information must be submitted to DNR in this packet and will not be accepted if incomplete. If the apparent high bidder does not provide the above listed items by **September 22, 2004**, the apparent high bidder shall be deemed non-responsible. **The bid shall be rejected and bid deposit forfeited.**

DNR's determination regarding the acceptance and confirmation of bids, or of bidder responsibility, shall be a final decision by DNR and the Commissioner of Public Lands, who has delegated such authority pursuant to a formal Designation and Order of Delegation. A bidder's sole remedy shall be to pursue any timely appeals that may be provided by RCW 79.01.500 or RCW 79.90.400. In no case shall DNR, or its agents, be liable for any claim for damages arising from such determinations.

Any oral statement by any representative of the state, modifying or changing any conditions of this Invitation to Bid is an expression of opinion only and confers no rights on to any bidder. In the event of any discrepancies between the Invitation to Bid and the Harvest Agreement, the Harvest Agreement will control. A sample Harvest Agreement will be available at the time of the auction or may be obtained in advance by contacting DNR's Aquatic Resources Division, PO Box 47027, Olympia, WA 98504-7027.



August 10, 2004

TO: All Members of the Geoduck Industry and Prospective Bidders

You are invited to test harvest. The next proposed geoduck quota areas to be auctioned are located in the **South Sound** harvest region in **Pierce County** at the **Mahnckes tract** and in **King County** at the **Point Heyer** tract.

The Washington State Department of Natural Resources (DNR) makes no representation as to the volumes, quality, grade, or condition of any geoducks on the beds. Each bidder must make their own independent appraisal.

DNR will allow test harvesting on the **Point Heyer** tract on **September 1, 2004** and at the **Mahnckes** tract on **September 3, 2004**. Test Harvest is by appointment only from 9:00 a.m. to 3:00 p.m. **Your appointment must be made by 4:00 p.m., Friday, August 27, 2004**. For an appointment or more information, contact Mike Chevalier at the Aquatic Resources Division Geoduck Program, (360) 902-1100 or write to the Department of Natural Resources, Aquatic Resources Division, 1111 Washington St. SE, P.O. Box 47027, Olympia, WA 98504.

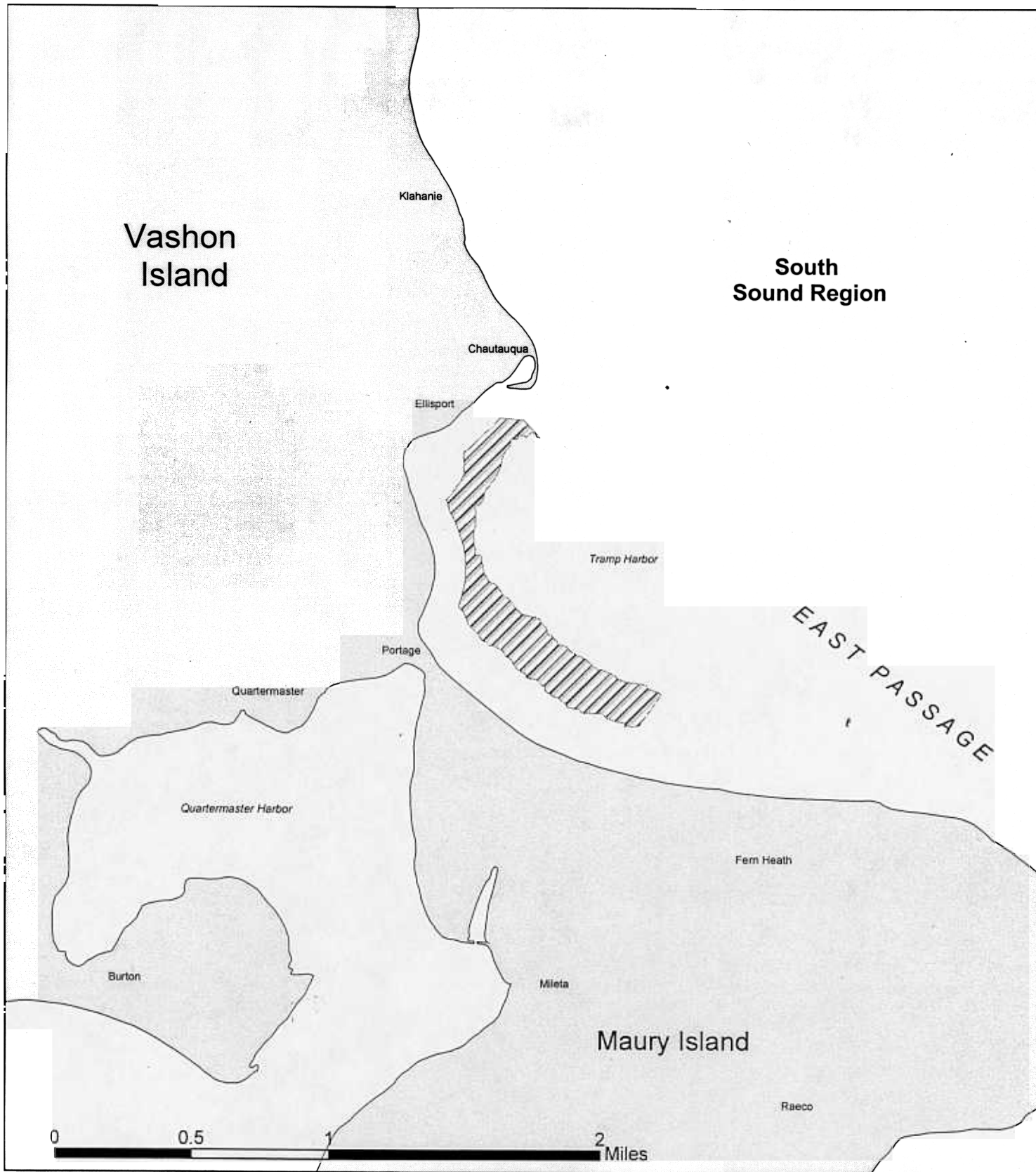
The harvest area is depicted on the attached vicinity map. Survey information will be available at the time of test harvesting.

The harvest limit will be up to **500** pounds total for each of the one-day test harvests. A test harvest fee of **\$3.80** per pound shall be paid when you test harvest. Payment for the amount of harvest, payable to the Department of Natural Resources, is required for all pounds harvested. Payment is to be made at the end of each harvest day. No cash will be accepted.

Should the harvester exceed the **500** pound limit, **\$7.60** per pound will be charged for all geoducks over the limit. **ALL GEODUCKS HARVESTED MUST BE PURCHASED BY THE HARVESTER.**

AT THE TIME OF THE TEST HARVEST, HARVEST VESSELS MUST CHECK IN AND OUT WITH THE STATE VESSEL ON SITE. The DNR vessel will be monitoring Channel 8 on VHF marine radio to facilitate contact. Each test harvester will need the appropriate Washington Department of Fish and Wildlife license(s), Washington State Business license, vessel insurance, and the appropriate Department of Health Certifications. Test harvesters will be required to provide proof of these licenses and insurance to the Department of Natural Resources before being allowed to test harvest. Only one diver will be allowed to test harvest from any one vessel at a time.

Figure 1: Vicinity Map, Point Heyer Geoduck Tract # 10000



1:31,654

1 inch equals 0.5 mile

Data Sources:

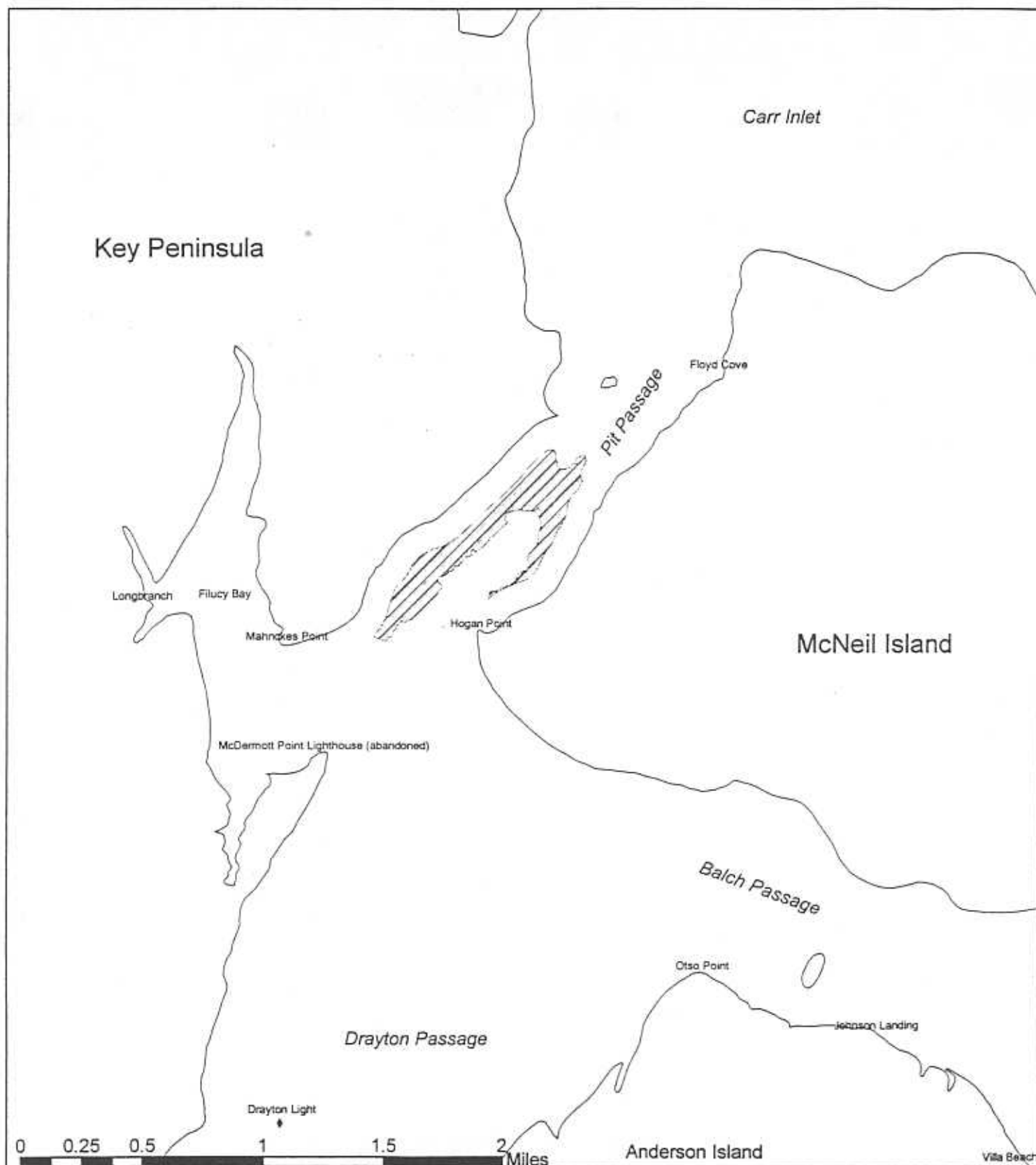
Projection for all data is Stateplane, Washington Zone South, units feet, Datum NAD 27. Coastline layer is from DNR, 1: 24,000 scale, created 09-20-99. Tract boundary updated with NOAA bathymetric contours, and side boundaries from historical tract data.



Washington
Department of
**FISH and
WILDLIFE**

Map Date: 09-19-03
Map Author: T. Rohila

Figure 1: Vicinity Map for Mahnckes 2-4 Geoduck Tract # 12950



1:36,000

1 inch equals 3,000 feet

Data Sources:

Projection for all data is Stateplane, Washington Zone South, units feet, Datum NAD 27. Coastline layer is from DNR, 1: 24,000 scale, created 09-20-99. Tract boundary updated with NOAA bathymetric contours, and side boundaries from historical tract data.



Map Date: 09-11-03
Map Author: T. Rohila

**GEODUCK QUOTA AUCTION
BID FORM**

Department of Natural Resources
Aquatic Resources Division
1111 Washington St SE
PO Box 47027
Olympia, WA 98504-7027

***ALL BIDS MUST BE SUBMITTED ON THIS FORM
BIDS MUST BE FILLED OUT COMPLETELY AND LEGIBLY***

I, _____ as authorized bidding agent
(Print FULL NAME of Authorized Agent to Submit Bid)

for _____, do hereby submit a bonus
(Name of Company)

bid of \$ _____, (_____)
(Bonus Bid Amount to Nearest Dollar) (Please Write Out the Amount you are Bidding)

for the right to harvest geoduck clams, up to the Harvest Ceiling from

(name of harvest area and QUOTA number)

geoduck harvest area as specified in the Invitation to Bid.

I understand that in submitting a bid, I am making an offer to enter into a contract with the State for the right to harvest geoduck clams. If my bid is successful, I must furnish the required bidder responsibility information and the required acceptable performance bond, bid payment, signed Harvest Agreement, and insurance certificate on or before the date(s) specified in the Invitation to Bid. Failure to do so will cause the bid deposit to be forfeited and this bid offer to be rejected and the bidder to be found non-responsible under RCW 79.90.215(1).

September 9, 2004
(Auction Date)

(Name of Agent Authorized to Sign Contract)

(Name of Company)

(Signature (Full Name) of Agent Submitting Bid)

(Address (NO PO Box Numbers))

(UBI number)

(City or Province)

(Phone Number)

(State or Country & Zip)

(FAX Number)

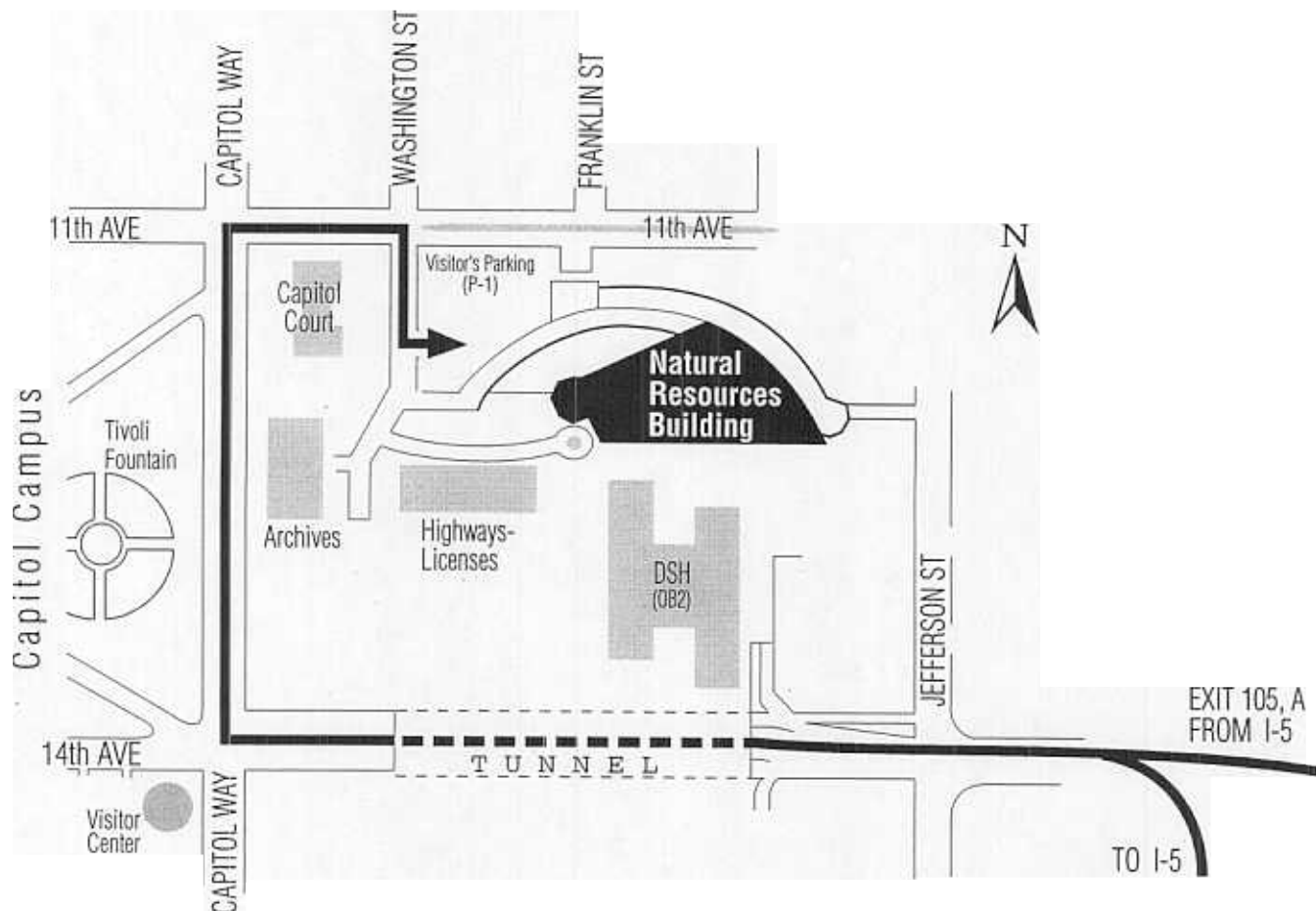
Bonus Bid Deposit Check Returned

Signature of Receiver: _____

Date _____

**Washington State Department of
Natural Resources**

1111 Washington Street SE
Olympia WA 98504
(360) 902-1000



Directions to D.N.R./Aquatic Resources: Visitor parking is available on the P-1 garage level. Visitors should pay at the meter-box and display their parking pass in the window of their vehicle. After entering the building from the P-1 Level, take the garage elevator to the first floor, proceed through the rotunda, past the main elevators, and down the long main hallway. Aquatic Resources is located at the end of the hall, where the Receptionist can help you.